

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THE CATHOLIC BISHOP OF
SPOKANE,

Debtor.

MICHAEL SHEA,

Plaintiff,

vs.
THE CATHOLIC DIOCESE OF
SPOKANE,

Defendant.

No. CV-05-274-JLQ

ORDER DENYING MOTION OF
MICHAEL SHEA TO DISMISS
THE ASSOCIATION OF
PARISHES

The Motion To Dismiss the Association of Parishes filed by Frank Conklin, attorney for Michael Shea, (C.R. 22) is DENIED.

While jurisdiction over all bankruptcy matters is, pursuant to Article III of the United States Constitution, in the United States District Courts, this court has elected, pursuant to 28 U.S.C. § 157(a), to refer all cases arising under title 11 of the United States Code to the bankruptcy judges of this district. This court has jurisdiction to hear appeals from final orders of bankruptcy judges pursuant to 28 U.S.C. § 158(a)(1) and may allow appeals from other orders of bankruptcy judges. In addition, this court may remove, in whole or part, an entire bankruptcy proceeding which has been referred to the bankruptcy court, pursuant to 28 U.S.C. § 157(d).

This court has not withdrawn the Catholic Bishop of Spokane bankruptcy case from the Bankruptcy Court of this district and jurisdiction over that matter remains in the

1 Bankruptcy Court. The only matter pending in this court arises from the Notices of
2 Appeal filed in this and related cases from the rulings of the Bankruptcy Court dated
3 August 26, 2005. While it might be argued that such rulings do not constitute final
4 “judgments, order, or decrees,” that issue has not been raised herein and in fact, the
5 appellants have also requested this court to review those decisions even if they are
6 collateral orders. This court has so agreed.

7 There is absolutely no indication that the issue of the standing of the Association
8 of Parishes was addressed to the Bankruptcy Court and even if so addressed, the
9 Bankruptcy Court’s ruling thereon is not the subject of an appeal to this court and this
10 court has not granted interlocutory review of any such Order. The sole matter before this
11 court in this and the related cases on appeal is the appeal from the August 26, 2005
12 Bankruptcy Court orders. This court has not, and does not intend to, withdraw the entire
13 Catholic Bishop of Spokane bankruptcy case from the bankruptcy court.

14 The court notes with interest that in his briefing on this standing issue, counsel for
15 Michael Shea has cited various Roman Catholic Church canons, the very position that the
16 Bishop of Spokane has asserted, that being that in the determination of the interests in
17 various parish properties, the court should consider the canons of the Roman Catholic
18 Church. While consideration of such canons is not required in ruling on the present
19 Motion To Dismiss the Association of Parishes, the reliance by counsel for Michael Shea
20 upon Roman Catholic Church canons herein may play a role in the determination of other
21 issues pending in this court.

22 The Clerk of this court shall enter this Order and forward copies to counsel.

23 **DATED** this 18th day of December 2005.

24 s/ Justin L. Quackenbush

25 JUSTIN L. QUACKENBUSH

26 SENIOR UNITED STATES DISTRICT JUDGE